

REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 10-31 are currently pending in the present application. Claims 10-13 are amended; and Claims 20-31 are newly added by the present amendment. Support for the new and amended claims can be found in the original specification, claims and drawings.¹ No new matter is presented.

In the outstanding Office Action, Claims 10-14 and 17 are rejected under 35 U.S.C. § 103(a) as unpatentable over Parantainen et al. (U.S. Pat. 7,092,373, herein Parantainen) in view of Haartsen (U.S. Pat. 6,965,933); and Claims 15-16 and 18-19 are rejected under 35 U.S.C. § 103(a) as unpatentable over Parantainen in view of Haartsen and Official Notice.

As an initial matter, Applicants appreciatively acknowledge the courtesy extended by Examiner Casca in holding a personal interview with the undersigned on August 19, 2009. During the interview, an overview of the claimed invention was presented and proposed amendments to Claims 10-13 were discussed. Examiner Casca agreed that the proposed amendments “overcome the cited prior art”. Accordingly, the proposed amendments to Claims 10-13 discussed during the interview are incorporated by the present amendment, and a summary of the arguments presented during the interview is provided below.

The Office Action rejects Claims 10-14 and 17 under 35 U.S.C. § 103(a) as unpatentable over Parantainen in view of Haartsen. In response to this rejection, Applicants respectfully submit that amended independent Claims 10-13 recite novel features clearly not taught or rendered obvious by the applied references.

Amended independent Claim 10, for example, recites, in part, a communication method for a communication system including a base station and a terminal, the terminal

¹ e.g., specification, at least at p. 5, l. 28 – p. 6, l. 7 and p. 8, l. 20 – p. 9, l. 11.

transmitting a data as a new data to the base station, and upon receiving an NAK signal indicating a reception failure from the base station as a response to the transmission of the new data, transmitting the data as a retransmission data to the base station. The communication method comprises:

... for the terminal, to ***autonomously transmit a retransmission data to the base station without sending a transmission request to the base station for a resource to transmit the retransmission data***, in case the new data is transmitted to the base station at the third step and the NAK signal is received from the base station as a response to the new data.

Independent Claims 11-13, while directed to alternative embodiments, are amended to recite similar features. Accordingly, the remarks and arguments presented below are applicable to each of amended independent Claims 10-13.

Turning to the applied primary reference, Parantainen describes a method and arrangement for transferring information in a packet radio service. More particularly, Parantainen describes a system in which the one and same uplink control channel is used for transferring uplink control information, which relates to at least two downlink connections.²

Parantainen, however, fails to teach or suggest that the mobile station in his system ***“autonomously transmit[s] a retransmission data to the base station without sending a transmission request to the base station for a resource to transmit the retransmission data”*** when a NAK signal is received indicating that the base station failed to receive transmitted data.

In rejecting the claimed features directed to the retransmission of data, the Office Action relies on paragraph [0068] of the P.G. Pub. (2002/0181422) of Parantainen. However, as Applicants have access only to the patent (U.S. Pat. 7,092,373) issued based on the aforementioned publication, this reference will be addressed in the context of the patent.

² Parantainen, abstract.

This cited portion of Parantainen appears to correspond to the description of assigning uplink timeslots, as described at col. 9, l. 52 – col. 10, l. 38. As an initial observation, this cited portion of Parantainen does describe using the PACCH to exchange Ack/Nack messages, but fails to describe a mechanism to retransmit uplink messages from the mobile station to the base station after receiving a Nack message from the base station, whatsoever. Moreover, this cited portion of Parantainen describes that a the mobile station transmits an initial request for uplink resources using the PACCH, and fails to teach or suggest that the mobile station transmits data autonomously without first sending a transmission request to the base station.

Haartsen, the secondary reference, describes a token distribution method in a LAN environment that uses a Selective-Repeat Automatic Retransmission Query (ARQ) Protocol.³ As is known in the art, the Selective-Repeat ARQ Protocol is merely a mechanism by which packet receipt is acknowledge and retransmission of packets is performed if a packet was not properly received.

Therefore, if Parantainen were to be modified to implement the Selective-Repeat ARQ Protocol described in Haartsen, the system would merely include a mechanism for acknowledging receipt of packets and retransmitting packets, but would still require the mobile station to request resources for the retransmission of data as described in Parantainen.

Moreover, Haartsen's method is specific to a LAN environment in which a "listen-before-talk" carrier sense multiple access (CSMA) is possible given the proximity of nodes, and the fact that the same resource is shared between each of the nodes. Such a configuration could not reasonably be implemented in Parantainen, because "listen-before-talk" is not a protocol that could be efficiently implemented in a GSM packet radio service.

³ Haartsen, col. 6, ll. 45-48.

More specifically, p. 4 of the Office Action asserts that it would have been obvious to modify Parantainen to include the retransmission procedure of Haartsen “for the purpose of providing an efficient communication system”. As noted above, however, implementing a “listen-before-talk” protocol in a GSM wireless network certainly would not result in a more “efficient communication system”, because it would be a very inefficient use of resources.

Therefore, Parantainen and Haartsen, neither alone, nor in combination, teach or suggest a terminal that “*autonomously transmit[s] a retransmission data to the base station without sending a transmission request to the base station for a resource to transmit the retransmission data*” when a NAK signal is received indicating that the base station failed to receive transmitted data, as recited in independent Claims 10-13.

Accordingly, Applicants respectfully submit that Claims 10-13 (and all associated dependent claims) patentably define over Parantainen and Haartsen.

Regarding the Official Notice taken in the outstanding Office Action with regard to Claims 15-16 and 18-19, M.P.E.P. § 2144.03 states that it is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record, as the principal evidence upon which the rejection is based. Accordingly, Applicant traverses the 35 U.S.C. § 103 rejection based on the Official Notice taken in the outstanding Office Action for the reason that, without the temporal and structural context by which these features are known to the artisan, it is impossible to conclude that it would be obvious for one of ordinary skill in the art at the time of the invention to combine those noticed features with the art of record. Indeed, the context by which these features are allegedly known might itself provide reasons to rebut a *prima facie* case of obviousness.

Accordingly, Applicants respectfully request that the rejection of Claims 15-16 and 18-19 under 35 U.S.C. § 103 be withdrawn.

Further, new Claims 20-31 are added, which each depend from one of independent Claims 10-13 and are therefore believed to be patentable for at least the reasons discussed above. Moreover, new dependent Claims 20-31 recite more detailed features regarding the specifics of "the resource", which are not taught or rendered obvious by the applied references.

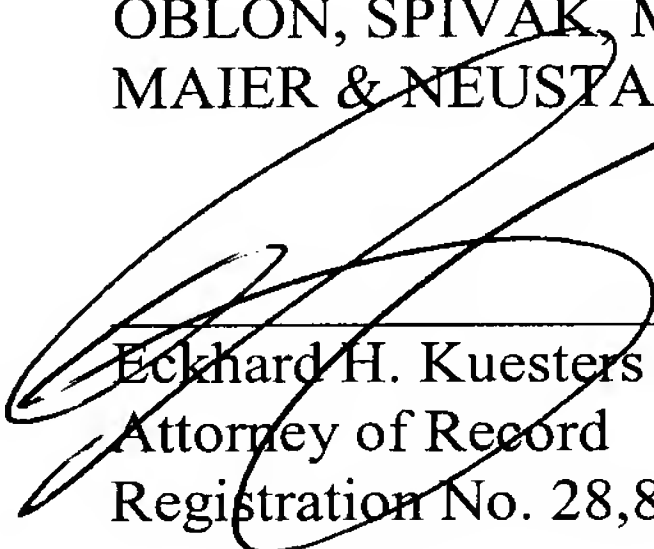
Consequently, in light of the above discussion and in view of the present amendment, the present application is believed to be in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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